

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MUAMAR A. SAYYED, #01524927 §
VS. § CIVIL ACTION NO. 4:12cv9
DIRECTOR, TDCJ-CID §

MEMORANDUM OPINION AND ORDER

Petitioner filed a motion for certificate of appealability and a motion to proceed *in forma pauperis* on appeal after this court dismissed his petition for writ of habeas corpus, which was filed pursuant to 28 U.S.C. § 2254. Petitioner's § 2254 petition was dismissed without prejudice because the motion was successive. Dismissal for lack of jurisdiction was proper due to Petitioner's failure to obtain permission from the Court of Appeals for the Fifth Circuit to file a successive petition.

United States v. Key, 205 F.3d 773, 774 (5th Cir. 2000). This court instructed Petitioner that he may seek permission to file a successive § 2254 motion with the Fifth Circuit. If Petitioner wishes to seek permission to file a successive motion, a motion for certificate of appealability is not necessary. 28 U.S.C. § 2244 (b)(3)(A). Because Petitioner's petition is successive, and he has not shown that he has sought authorization from the Fifth Circuit to file it, he is not entitled to a COA. It is

ORDERED that the motion for certificate of appealability and motion for leave to appeal *in forma pauperis* (docket entries #21, #22) are **DENIED**.

SIGNED this the 12th day of February, 2014.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE